

SUMMARY ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Dunn Analyst: Marion Mann DeJong Bill Number: SB 1724

Related Bills: See Prior Analysis Telephone: 845-6979 Amended Date: 08/11/2000

Attorney: Patrick Kusiak Sponsor:

SUBJECT: Prohibit Disclosure of Return Information by Preparers & Businesses/FTB
Prohibited from Approving Electronic Filing if Taxpayer Must Waive Privacy

- ☒ DEPARTMENT AMENDMENTS ACCEPTED. Amendments reflect suggestions of previous analysis of bill as amended July 3, 2000.
- ☐ AMENDMENTS IMPACT REVENUE. A new revenue estimate is provided.
- ☐ AMENDMENTS DID NOT RESOLVE THE DEPARTMENT'S CONCERNS stated in the previous analysis of bill as introduced/amended _____.
- ☐ FURTHER AMENDMENTS NECESSARY.
- ☐ DEPARTMENT POSITION CHANGED TO _____.
- ☒ REMAINDER OF PREVIOUS ANALYSIS OF BILL AS AMENDED July 3, 2000, STILL APPLIES.
- ☐ OTHER - See comments below.

SUMMARY OF BILL

Under the Revenue and Taxation Code (R&TC), this bill would prohibit the Franchise Tax Board (FTB) from approving electronic filing software or electronic tax forms that require taxpayers to waive privacy protections or require the sharing of information as a condition of access.

Under the Business and Professions Code (B&PC), this bill would:

- ?? Expand criminal sanctions for disclosures of tax return information by businesses that prepare returns by adding disclosures made either within the tax-preparing firm (for purposes other than tax preparation) or to subsidiaries or affiliates of the tax-preparing firm.
- ?? Add filing an income tax return electronically to the list of activities that defines persons engaged in the business of preparing tax returns or assisting in the preparation of tax returns.
- ?? Allow the written consent for disclosure to be done electronically with an electronic signature.
- ?? Modify the definition of "tax preparers" to include persons who, for consideration other than a fee, prepare tax returns for another person.
- ?? Make each violation of the criminal provisions regulating the practice of tax preparers a separate offense.
- ?? Specify that tax return information includes information obtained through an electronic medium.
- ?? Require the disposal of tax return information in a manner that protects the identity of the taxpayers.

Board Position:

<input checked="" type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input type="checkbox"/> PENDING

Legislative Director

Date

Johnnie Lou Rosas

8/11/2000

Under the Civil Code, this bill would establish a civil penalty for disclosure of tax return information provided by a consumer in connection with financial or business-related transactions. This consumer protection penalty would be based on the taxpayer protection penalty under the B&PC.

The B&PC and Civil Code provisions do not directly impact the programs administered by FTB.

SUMMARY OF AMENDMENTS

The August 11, 2000, amendments made minor grammatical changes, clarified that prohibited disclosures made internally within the entity preparing tax returns were those made for purposes other than tax preparation and specified in the Civil Code that the B&PC would govern the treatment of tax returns by tax preparers.

The August 7, 2000, amendments made a department recommended change to clarify that all electronic filing, not just filing thorough the department's portal, would be prohibited from requiring the taxpayer to waive any privacy protections or share information.

The August 7, 2000, amendments also tied the provisions relating to destruction of tax information being added by this bill to the B&PC and the Civil Code to AB 2246. If AB 2246 is enacted and becomes operative on or before January 1, 2001, Section 17530.6 of the Business and Professions Code and subdivision (d) of Section 1799.1a of the Civil Code would not become operative.

The amendments resolved the technical consideration raised in the department's prior analysis. Except for the technical consideration, the department's analysis of the bill as amended July 3, 2000, still applies.

BOARD POSITION

Support.

At its July 5, 2000, meeting, the Franchise Tax Board voted 2-0 to support this bill, with member B. Timothy Gage abstaining.